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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,738	07/06/2000	John Crescenti	99CV02	5018

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BROWN, RAYSMAN, MILLSTEIN, FELDER & STEINER LLP
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NEW YORK, NY 10022

EXAMINER

PARDO, THUY N

ART UNIT	PAPER NUMBER
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2175

DATE MAILED: 08/28/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/610,738

Applicant(s)

CRESCENTI ET AL.

Examiner

Thuy Pardo

Art Unit

2175

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-17 and 20-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-17 and 20-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's Amendment filed on June 05, 2003 in response to Examiner's Office Action has been reviewed. Claims 1-6, 18, and 19 have been canceled, claims 1-17 have been amended, and claims 20-69 have been added.
2. Claims 7-17 and 20-69 are presented for examination.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 37 1© of this title before the invention thereof by the applicant for patent.

4. Claims 7-9, 11, 12, 14, 15, 17, 20, 21, 23, 38, 45, 46, 48, and 63 are rejected under 35 U.S.C. § 102(e) as being anticipated by Anglin U.S. Patent No. 6,026,414.

As to claim 7, Anglin teaches the invention substantially as claimed, comprising:

a file processor for directing functions associated with the archival of data over a network, the file processor being a part of a computing device [backup a file in a file server, col. 5, lines 39-43];

a plurality of backup devices, each backup device having storage space for the archival of data [col. 5, lines 25-30];

a plurality of media components, each media component being a part of a computing device [col. 6, lines 12-17] and being communicatively coupled to one or more of the plurality of the backup devices [col. 5, lines 60-65] and the file processor for controlling the archival functions of the backup devices in accordance with the direction from the file processor [60, 68, and 70 of fig. 3];

a plurality of client components [col. 2, lines 57-59] for generating archival type requests [col. 6, lines 30-34; 40, 42, 44 of fig. 3]; and

wherein the file processor, in response to the archival type requests, provides direction to the plurality of media components for directing the archival functions in accordance with the archival type requests [if no: 46, 48, 50 of fig. 3 and if yes: 44, 52, 54, 56 of fig. 3; col. 6, lines 30-34].

As to claim 8, all elements of this claim are rejected in the analysis of claim 1 above, and this claim is rejected on that basis.

As to claim 9, Anglin teaches the invention substantially as claimed as specified in claim 7 above. Anglin further teaches a plurality of client devices [clients, col. 1, lines 57-61]; and wherein

each client component is communicatively coupled to one or more of the plurality of client devices [each client component 4 is communicatively coupled to proxy client 10 of fig. 1] and the file processor for communicating the archival type requests from the client devices to the file processor [col. 6, lines 30-34; 40, 42, 44 of fig. 3].

As to claim 11, all elements of this claim are rejected in the analysis of claim 1 above, and this claim is rejected on that basis.

As to claim 12, all elements of this claim are rejected in the analysis of claim 3 above, and this claim is rejected on that basis.

As to claim 14, Anglin teaches the invention substantially as claimed as specified in claim 7 above. Anglin further teaches

a network storage media communicatively coupled to two or more of the plurality of client devices over the network [col. 1, lines 33-35, 57-58] and the plurality of backup devices [storage devices, 22 of fig. 1-2; 70 of fig. 3];

wherein at least one client device includes a local storage media [access files from client storage location, 46 of fig. 3; col. 6, lines 44-45];

wherein the archival functions include reading data from the network storage media [file read from the file server, col. 2, lines 1-12; col. 5, lines 60-65] and writing the data to one of the plurality of backup devices [transmits file to the storage device, col. 3, lines 13-15; 70 of fig. 3]; and

wherein the archival functions include reading data from the local storage media [client must read a file to be backed-up, col. 2, lines 1-12] and writing the data to one of the plurality of backup devices [transmits file to the storage device, 70 of fig. 3].

As to claim 15, all elements of this claim are rejected in the analysis of claim 7 above, and this claim is rejected on that basis.

As to claim 17, Anglin teaches the invention substantially as claimed. Anglin further teaches that the archival type requests comprise backup requests such that at least one copy of data is stored in a location other than an original location of the data [backup a file located in the file server to the storage device 22, col. 5, lines 20-43; col. 7, lines 20-34].

As to claim 20, Anglin teaches the invention substantially as claimed, the method comprising:

providing a client component to coordinate backup and retrieval functions for the computing device [allows the client to communicate with the backup server to backup data to which the client has access, col. 5, lines 20-22];

providing a media component [magnetic storage media, col. 6, lines 13-16], communicatively coupled to the client component [18 of fig. 1-2], controlling one or more backup devices [col. 6, lines 12-17] directed to performing archival type requests [col. 6, lines 30-34; 40, 42, 44 of fig. 3];
and

providing a management component [proxy client 10 of fig. 1], communicatively coupled to the client component [client 4 of fig. 1-2] and the media component, directing the client component and the media component to perform the archival type request [40, 42, 44 of fig. 3; col. 6, lines 30-34].

As to claim 21, Anglin teaches the invention substantially as claimed. Anglin further teaches the client component communicating with the management component regarding backup and retrieval functions [col. 6, lines 54-65].

As to claim 23, Anglin teaches the invention substantially as claimed. Anglin further teaches communicating with the management component regarding a type of file to backup [determine whether the file to be backup is in the shared name space or not, 42 of fig. 3; col. 6, lines 36-65].

As to claim 45, it is a corresponding apparatus claim of claim 20; therefore, this claim is rejected on that basis.

As to claims 38, 46, 48, and 63, all limitations of these claims have been addressed in the analysis of claims 21 and 23 above, and these claims are rejected on that basis.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 22, 24-29, 34-37, 39-44, 47, 49-54, 59-62, and 64-69 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over **Anglin** U.S. Patent No. 6,026,414, in view of **Saxon** U.S. Patent No. 5,758,359.

As to claim 22, Anglin teaches the invention substantially as claimed, with the exception of communicating with the management component regarding a backup schedule. Saxon teaches communicating with the management component regarding a backup schedule [detect scheduled backup and determine scheduled backup level, 44, 46 of fig. 3a; col. 2, lines 22-37]. Therefore, it would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to have modified the backup system of Anglin wherein the method of backup files over the network provided thereof would have incorporated the teachings of Saxon especially backup policies of scheduling; the motivation being to expand and enhance the versatility of Anglin's system by determining the frequency and range of backup operation [see Saxon, col. 26-29].

As to claim 24, Anglin and Saxon teach the invention substantially as claimed. Saxon further teaches communicating with the management component regarding an aging policy [col. 2, lines 37-54; col. 5, lines 15-38].

As to claim 25, Anglin and Saxon teach the invention substantially as claimed. Saxon further teaches communicating with the management component regarding index pruning [col. 10, lines 22 to col. 11, lines 10].

As to claim 26, Anglin and Saxon teach the invention substantially as claimed. Saxon further teaches communicating with the management component regarding a type of backup [col. 1, lines 35-39].

As to claim 27, Anglin and Saxon teach the invention substantially as claimed. Saxon further teaches communicating with the management component regarding a full backup [col. 1, lines 29-34].

As to claim 28, Anglin and Saxon teach the invention substantially as claimed. Saxon further teaches communicating with the management component regarding an incremental backup [col. 1, lines 34-39; col. 5, lines 42-55].

As to claim 29, Anglin and Saxon teach the invention substantially as claimed. Saxon further teaches communicating with the management component regarding a differential backup [partial backup, col. 1, lines 39-41].

As to claim 34, Anglin and Saxon teach the invention substantially as claimed. Saxon further teaches controlling one or more optical media backup devices [optical storage device, col. 4, lines 2-3].

As to claim 35, Anglin and Saxon teach the invention substantially as claimed. Saxon further teaches controlling one or more magnetic media backup devices [magnetic disk drives, col. 4, lines 6-9].

As to claim 36, Anglin and Saxon teach the invention substantially as claimed. Saxon further teaches controlling one or more tape backup devices [tape drives, col. 4, lines 5-10].

As to claims 37-44, all limitations of these claims have been addressed in the analysis of claims 22-29 and 34-36 above, and these claims are rejected on that basis.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 10, 13, and 16 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over **Anglin** U.S. Patent No. 6,026,414, in view of **Morris** U.S. Patent No. 5,813,017.

As to claim 10, Anglin teaches the invention substantially as claimed as specified in claims 7 and 9 above. However, Anglin does not explicitly teach that at least two of the plurality of client devices run different operating systems. Morris teaches that at least two of the plurality of client devices run different operating systems [clients can run different operating systems, such as: DOS, Window, OS/2, or AIX systems, see fig. 1]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the backup system of Anglin wherein the method of backup files over the network provided thereof would have incorporated the teachings of Morris especially the methodology of restoring a file to a selected state; the motivation being to expand and enhance the versatility of Anglin's system by allowing the client system to be compatible with variety of operating systems in order to reduce the burden on transmission network.

As to claim 13, Anglin and Morris teach the invention substantially as claimed. Morris further teaches that the archival type requests comprise restoration requests that provide the storage system with the ability to restore data to a selected state [col. 1, lines 40-44; col. 5, lines 29-31; col. 14, lines 45-50].

As to claim 16, all elements of this claim are rejected in the analysis of claim 10 above, and this claim is rejected on that basis.

9. Claims 30-33, and 55-58 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over **Anglin** U.S. Patent No. 6,026,414, in view of **Jander** in "**Launching a Storage-Area Net**".

As to claims 30 and 31, Anglin teaches the invention substantially as claimed as specified in claim 1 above. However, Anglin does not explicitly teach that a full backup of the storage system as stored and managed on a storage area network (SAN) system and a media component is communicatively coupled to the client component via a LAN. Jander teaches that a full backup of the storage system as stored and managed on a storage area network (SAN) system [see 2nd paragraph of page 65 and fig. 1 of page 67] and a media component is communicatively coupled to the client component via a LAN [see fig. 1 on page 67]. Therefore, it would have been obvious for one skilled in the art to have modified the storage system of Anglin wherein the method of backup files over the network provided thereof would have incorporated the teachings of Jander especially the feature of storing and managing files on a SAN system; the motivation being to expand and

enhance the versatility of Anglin's system by helping net managers move stored data around quickly and take the load off the LAN and WAN [see Jander, page 64].

As to claims 32-33 and 55-58, all limitations of these claims have been addressed in the analysis of claims 30 and 31 above, and these claims are rejected on that basis.

Response to Arguments

10. Applicant argues that Anglin does not contain any teaching or suggestion of a management component or other component to direct or otherwise manage and oversee archival type request for the system.

As to point (A), Examiner respectfully disagrees. Examiner believes that this feature of performing an archival type request for a client computer device was also taught by Anglin. Anglin teaches that when the client initiates a backup operation of a file (or initiates a backup request), the backup request of the file is transferred to a decision block to decide whether the file to be backed up is in the shared name space. If the requested file is in the shared name space then the control will transfer to proxy client to perform backup operation. If the requested file is not in the shared name space then control transfer to the backup server to perform backup operation [col. 6, lines 30-50; 40-56 of fig. 3].

(B) Applicant argues that Anglin does not disclose or suggest, as set forth in claim 15, a method for storing data over a network, comprising a file processor, communicatively coupled to at least one client component and a plurality of media components, which directs through the plurality

of media components, a plurality of backup devices to perform an archival function, in accordance with an archival type request generated by at least one of the client components.

As to point (B), Examiner respectfully disagrees. Examiner believes that all limitations of this claim are taught by Anglin [see the details in the office action above]. For instance, a file processor, communicatively coupled to at least one client component and a plurality of media components, which directs through the plurality of media components [file server 8 is coupled to proxy server 10 and storage devices 22, see fig. 1; col. 6, lines 12-17], a plurality of backup devices to perform an archival function, in accordance with an archival type request generated by at least one of the client components [see fig. 3 and the discussion in (A)].

(C) Applicant argues that Anglin does not disclose or suggest, as set forth in claim 20, limitations of providing a client component, communicatively coupled to a client component and a media component, to direct the client component and the media component to perform an archival type request; providing a client component to coordinate backup and retrieval functions for computing device; and providing the media component to control one or more backup devices directed to performing archival type requests.

As to point (C), Examiner respectfully disagrees. Examiner believes all these features are taught by Anglin [see the details in the office action above]. For instance, Anglin teaches providing a client component to coordinate backup and retrieval functions for the computing device; [allows the client to communicate with the backup server to backup data to which the client has access, col. 5, lines 20-22]; providing a media component [magnetic storage media, col. 6, lines 13-16], communicatively coupled to the client component [18 of fig. 1-2], controlling one or more backup

devices [col. 6, lines 12-17] directed to performing archival type requests [col. 6, lines 30-34; 40, 42, 44 of fig. 3]; and providing a management component [proxy client 10 of fig. 1], communicatively coupled to the client component [client 4 of fig. 1-2] and the media component, directing the client component and the media component to perform the archival type request [40, 42, 44 of fig. 3; col. 6, lines 30-34; and see the discussion in (A)].

(D) Applicant argues that Anglin does not disclose or suggest, as set forth in claim 45, limitations of a management component programmed to direct a client component and a media component to perform the archival type request; wherein the client component is programmed to coordinate backup and retrieval functions for the computing device; and wherein the media component is programmed to control one or more backup devices directed to performing archival type requests.

As to point (D), Examiner respectfully disagrees. Claim 45 is a corresponding apparatus claim of claim 20. Since all limitations of claim 20 are rejected; therefore, this claim is rejected on that basis [see the details of discussion in A-C].

11. Applicant's arguments have been fully considered but they are not deemed to be persuasive.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy Pardo, whose telephone number is (703) 305-1091. The examiner can normally be reached Monday through Thursday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici, can be reached at (703) 305-3830.

The fax phone number for the organization where this application or proceeding is assigned are as follows:

(703) 746-7238	(After Final Communication)
(703) 746-7239	(Official Communication)
(703) 746-7240	(For Status inquiries, draft communication)

and/or:

(703) 746-5616 (*Use this Fax#, only after approval by Examiner, for "INFORMAL" or "Draft" communication. Examiner may request that a formal/amendment be faxed directly to them on occasions*).

Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

13. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications intended for entry)

Or:

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(703) 308-5359, (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington.
VA., Sixth Floor (Receptionist).

A handwritten signature in black ink, appearing to be 'Thuy Pardo', with a long horizontal stroke extending to the right.

Thuy Pardo
August 21, 2002